

## REMARKS

### **I. Introduction**

In response to the January 11, 2008 Office Action, Applicants have amended claim 1 in order to further clarify the scope of the present invention and to overcome the objections under 37 CFR § 1.75(c). In addition, claim 2 has been cancelled, without prejudice. No new matter has been added.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art references.

### **II. The Rejection Of Claims 1, 2 And 8 Under 35 U.S.C. § 102**

Claims 1, 2, 4, 6, 10 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Birke et al. (Electrochemical analysis of thin film electrolytes and electrodes for application in rechargeable all solid state lithium microbatteries, *Electrochimica Acta*. Vol. 42, Nos. 20-22, pp. 3375-3384, 1997). Applicants respectfully submit that Birke fails to anticipate the pending claims for at least the following reasons.

With regard to the present invention, amended claim 1 recites a solid electrolyte represented by a general formula:  $\text{Li}_x\text{MO}_y\text{N}_z$ , where M is at least one element selected from the group consisting of Si, B, Ge, Al, C, Ga and S, and x, y and z respectively satisfy  $x = 1.6$  to  $2.0$  or  $4.6$  to  $5.0$ ;  $y = 2.050$  to  $2.985$  or  $3.050$  to  $3.985$ , and  $z = 0.01$  to  $0.50$ .

It was alleged that Birke discloses a solid electrolyte having the formula  $\text{LiBO}_{1.86}\text{N}_{0.06}$ . However, as claim 1 has been amended to disclose a solid electrolyte represented by the general formula  $\text{Li}_x\text{MO}_y\text{N}_z$ , wherein  $y = 2.050$  to  $2.985$  or  $3.050$  to  $3.985$ , it is clear that the solid electrolyte of Birke has a range of oxygen outside the claimed range (1.86 being outside the

range of 2.050 to 2.985). Accordingly, Applicants respectfully submit that Birke fails to disclose a solid electrolyte represented by a general formula:  $\text{Li}_x\text{MO}_y\text{N}_z$ , where  $y = 2.050$  to  $2.985$  or  $3.050$  to  $3.985$ .

Anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently in a prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), and Birke does not disclose a solid electrolyte represented by a general formula:  $\text{Li}_x\text{MO}_y\text{N}_z$ , where M is at least one element selected from the group consisting of Si, B, Ge, Al, C, Ga and S, and x, y and z respectively satisfy  $x = 1.6$  to  $2.0$  or  $4.6$  to  $5.0$ ;  $y = 2.050$  to  $2.985$  or  $3.050$  to  $3.985$ , and  $z = 0.01$  to  $0.50$ . Therefore, as it is apparent from the foregoing that Birke fails to anticipate claim 1 or any dependent claims thereon, the Applicants respectfully request that the § 102 rejection be withdrawn.

**III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable**

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

**IV. Conclusion**

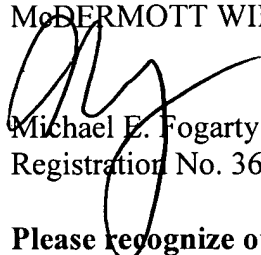
Having responded to all open issues set forth in the Office Action, it is respectfully submitted that all claims are in condition for allowance.

**Application No.: 10/553,238**

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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